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be disturbed, when there is sufficient evidence, so considered, to support it.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 576.]

Error to Circuit Court, Giles County.

Phillip Webb was convicted, and brings error. Affirmed.

W. B. Snidow, of Pearisburg, for plaintiff in error.

The Attorney General, for the Commonwealth.

KIRBY *v.* BOOKER.

Jan. 24, 1918.

[94 S. E. 775.]

Creditors' Suit (§ 51*)—Sale—Validity.—In a creditor's suit to subject the real and personal estate of a decedent to the payment of his debts, where the report of a commissioner, to whom there was a reference to take an account of the real and personal estate and of the debts, liens, and demands against it, did not accurately inform the court of the amount or value of the personal estate, or report the assets or the indebtedness of the estate, or the date and priorities thereof, though there were both liens and secured debts, so that the court could not determine to what extent it would be necessary to resort to the real estate, it was error to decree a sale of the land for the payment of the indebtedness, especially where one of the exceptions to the report of sale was an entirely inadequate price, not passed upon by the court, so that the reviewing court could not tell whether it sold for a fair price or not, even though the debts exceeded the value of the property so that no heir can be benefited, and though no creditor complained.

[Ed. Note.—For other cases, see 3 Va.-W. Va. Enc. Dig. 812.]

Appeal from Circuit Court, Halifax County.

Creditors' suit by R. I. Overby against C. G. Kirby's administrator and others. From a decree refusing to confirm and setting aside a sale upon objections by M. B. Booker, guardian ad litem, H. E. Kirby, purchaser, appeals. Affirmed.

Easley & Bouldin, of Houston, for appellant.

John Martin, of Houston, for appellee.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.